

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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:  
UNITED STATES OF AMERICA : 08-CR-798 (DLI)  
:  
v. :  
:  
October 1, 2009  
WILFRIDO CARABALLO, : Brooklyn, New York  
:  
Defendant. :  
-----X

TRANSCRIPT OF CRIMINAL CAUSE FOR PLEADING  
BEFORE THE HONORABLE STEVEN M. GOLD  
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Government: United States Attorney's Office  
BY: STEPHEN FRANK, ESQ.  
Assistant United States Attorney  
225 Cadman Plaza East  
Brooklyn, New York 11201

For the Defendant: LAWRENCE K. FEITELL, ESQ.  
225 Broadway  
New York, New York 10007

Interpreter: PETER ANDERSON

Court Transcriber: CARLA NUTTER  
TypeWrite Word Processing Service  
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Proceedings recorded by electronic sound recording,  
transcript produced by transcription service

1 THE CLERK: Criminal Cause for Guilty Plea, United  
2 States of America v. Wilfrido Caraballo, 08-CR-798. Counsel,  
3 please state your appearances for the record.

4 MR. FRANK: Steve Frank for the United States, Your  
5 Honor. Good afternoon.

6 MR. FEITELL: For the defendant, Lawrence Feitell.

7 With the Court's permission I would like to have my  
8 associate, Bennett Feitell, who is in my office and assists me  
9 in all of my handling of cases, to sit in on this guilty plea.

10 THE COURT: Certainly.

11 MR. FEITELL: Thank you, Judge.

12 THE COURT: I'm pleased to have you.

13 MR. B. FEITELL: Thank you, Your Honor.

14 THE COURT: I see we have a court certified Spanish  
15 interpreter. Please state your name for our record.

16 THE INTERPRETER: Yes. Good afternoon, Your Honor.  
17 Peter Anderson.

18 THE COURT: Thank you, Mr. Anderson.

19 All right. Mr. Caraballo, are you able to understand  
20 what I -- it's all right, Mr. Feitell, he can be seated.

21 Are you able to understand what is I'm saying as it  
22 is translated into Spanish for you by Mr. Anderson?

23 THE DEFENDANT: Yes.

24 THE COURT: The reason you are before the Court today  
25 is that your lawyer indicates that you wish to enter a plea of

1 guilty to a lesser included offense within Count One of the  
2 indictment in which you are charged.

3           Before I may hear any guilty plea you might choose to  
4 offer I want to make sure you understand that I'm not the Judge  
5 who is presiding over your case. The Judge in your case is  
6 United States District Judge Irizarry. Judge Irizarry is the  
7 Judge who will decide whether any guilty plea you offer should  
8 be accepted and if it is, how your sentence should be  
9 calculated.

10           I am a Magistrate Judge. I do not have the authority  
11 under the law to formally accept your plea or decide your  
12 sentence.

13           If you wish you have the absolute right to present  
14 your guilty plea to Judge Irizarry on another day convenient to  
15 Her Honor. If that were your choice there would be no  
16 prejudice to you. You would be permitted to plead guilty on  
17 the same terms and conditions being offered to you now but on  
18 another day that is convenient to Judge Irizarry.

19           In the alternative though, if I have your consent and  
20 agreement I do have the authority to be the Judge who listens  
21 to your plea of guilty. If you agree to proceed before me this  
22 entire proceeding will be recorded and the recording will be  
23 transcribed so that Judge Irizarry has a complete written  
24 record of everything we've said before she's called upon to  
25 decide whether your plea should be accepted or how your

1 sentence should be determined. Is this clear to you?

2 THE DEFENDANT: Yes.

3 THE COURT: Do you wish to give up your right to have  
4 Judge Irizarry hear your plea and do you agree to proceed  
5 instead before me?

6 THE DEFENDANT: It should be you. It's not a  
7 problem.

8 THE COURT: Are you making this decision voluntarily  
9 and of your own free will?

10 THE DEFENDANT: Yes.

11 THE COURT: Have you been threatened or pressured in  
12 any way to agree to this?

13 THE DEFENDANT: No.

14 THE COURT: Can you see this form from where you sit?

15 THE DEFENDANT: Yes.

16 THE COURT: Was this form reviewed with you carefully  
17 by your lawyer and did you understand it and did you sign it?

18 THE DEFENDANT: Yes.

19 THE COURT: Mr. Feitell, do you know of any reason  
20 why your client should not consent to proceed before me for  
21 these purposes?

22 MR. FEITELL: I know of no reason, Your Honor.

23 THE COURT: Thank you. Mr. Feitell, are you  
24 appointed or retained?

25 MR. FEITELL: I am appointed.

1 THE COURT: Thank you, sir.

2 MR. FEITELL: CJA.

3 THE COURT: Mr. Caraballo, before I may recommend  
4 that Judge Irizarry accept any plea of guilty you might choose  
5 to offer today, I'm going to have to ask you a long list of  
6 questions. The questions are very important. They're designed  
7 to make sure that you understand what a serious decision you  
8 are about to make but they are also designed to protect the  
9 prosecution and the Court by creating a record that will show  
10 that I explained you rights to you, you told me you understood  
11 your rights and you agreed to give up your rights and once that  
12 happens any plea of guilty that you offer will be legally valid  
13 and permanently binding. So I urge you to listen carefully to  
14 my questions and if I ask you anything that you are not sure  
15 you understand I urge you to tell me and give me an opportunity  
16 to try and rephrase the question and make it clearer to you.  
17 Do you understand everything I've said so far?

18 THE DEFENDANT: Yes.

19 THE COURT: It's so important that you're truthful  
20 today that I will ask that you be placed under oath before I  
21 proceed further.

22 THE CLERK: Please stand and raise your right hand.

23 (Wilfrido Caraballo, Defendant, Sworn.)

24 THE COURT: You may be seated. Now that you have  
25 taken an oath, when you answer my questions you do so under the

1 penalties of perjury or making a false statement. That means  
2 that if you lie to me during this proceeding the prosecution  
3 may bring new charges against you just for that. Do you  
4 understand?

5 THE DEFENDANT: Yes.

6 THE COURT: What is your full name?

7 THE DEFENDANT: Wilfrido Raphael Caraballo Castillo.

8 THE COURT: Tell me your age.

9 THE DEFENDANT: I am 28 years old.

10 THE COURT: How far did you go in school?

11 THE DEFENDANT: Third grade.

12 THE COURT: How old were you when you stopped going  
13 to school?

14 THE DEFENDANT: I was nineteen years old.

15 THE COURT: Are you having any problem understanding  
16 the interpreter as he's translating everything into Spanish?

17 THE DEFENDANT: No.

18 THE COURT: Are you now or have you recently been in  
19 the care of a medical doctor, psychologist or other healthcare  
20 professional for any physical or mental problem?

21 THE DEFENDANT: No.

22 THE COURT: In the last 24 hours have you taken any  
23 narcotics, drugs, medicine, pills or alcohol?

24 THE DEFENDANT: No.

25 THE COURT: Have you ever in your life been

1 hospitalized or treated for drug or alcohol abuse or a mental  
2 or emotional problem?

3 THE DEFENDANT: Well, I was stopped once for a DUI.

4 THE COURT: Did you ever receive medical attention  
5 for a chronic alcohol or drug or psychiatric problem?

6 THE DEFENDANT: No.

7 THE COURT: Is your mind clear today?

8 THE DEFENDANT: Yes.

9 THE COURT: Do you feel healthy, focused and alert?

10 THE DEFENDANT: Yes.

11 THE COURT: Counsel, have you reviewed the matter of  
12 pleading guilty carefully with your client?

13 MR. FEITELL: Yes, we have.

14 THE COURT: Does he in your judgment understand the  
15 rights he'll be waiving if he tenders a guilty plea?

16 MR. FEITELL: Yes, he has full comprehension.

17 THE COURT: Is he in your judgment capable of  
18 understanding this proceeding?

19 MR. FEITELL: Yes.

20 THE COURT: Do you have any doubt about his  
21 competence to offer a guilty plea at this time?

22 MR. FEITELL: None, Your Honor. We discussed this  
23 thoroughly.

24 THE COURT: Have you alerted him to the maximum and  
25 minimum sentence and fine that might be imposed, discussed with

1 him the likely operation of the sentencing guidelines and  
2 alerted him to the collateral consequences of conviction?

3 MR. FEITELL: We have done all of these things.

4 THE COURT: Thank you, sir. Mr. Caraballo, have you  
5 had enough time to go over your case very carefully with Mr.  
6 Feitell and have you done that?

7 THE DEFENDANT: Yes.

8 THE COURT: Are you satisfied to have it be Mr.  
9 Feitell who is defending you in this case?

10 THE DEFENDANT: Yes.

11 THE COURT: Have you received a copy of what we call  
12 the superseding indictment where the charges against you are  
13 set forth in writing?

14 THE DEFENDANT: Yes.

15 THE COURT: Have you reviewed that indictment  
16 carefully with Mr. Feitell with the aid of an interpreter and  
17 do you understand what you're accused of in it?

18 THE DEFENDANT: Yes.

19 THE COURT: In Count One you are charged with  
20 knowingly and intentionally conspiring or agreeing to work  
21 together with others to possess with the intent to distribute  
22 and to distribute more than five kilograms of cocaine between  
23 September of 2007 and October of 2008. Do you understand what  
24 you are accused of in Count One of the superseding indictment?

25 THE DEFENDANT: Yes.



1           THE COURT: You have a right to plead not guilty to  
2 that charge and all of the other charges pending against you.  
3 That is your right even if you committed the crimes of which  
4 you are accused. It is never lying or misleading the Court to  
5 plead not guilty. Every defendant has that right. Is that  
6 clear?

7           THE DEFENDANT: Yes.

8           THE COURT: If you were to plead not guilty, then  
9 under the Constitution and laws of the United States you would  
10 be entitled to a speed and public trial by a jury with the  
11 assistance of your lawyer on all pending charges against you.  
12 Is that clear?

13          THE DEFENDANT: Yes.

14          THE COURT: At your trial you would be presumed to be  
15 innocent. The prosecution would be required to overcome the  
16 presumption of innocence and to prove that you were guilty by  
17 competent evidence and beyond a reasonable doubt. You would  
18 have no responsibility at your trial to prove that you were  
19 innocent. If the prosecution failed to prove that you were  
20 guilty beyond a reasonable doubt the members of the jury would  
21 have the duty to return a verdict of not guilty and Judge  
22 Irizarry would instruct them accordingly. Is that clear?

23          THE DEFENDANT: Yes.

24          THE COURT: That is why juries sometimes find  
25 defendants not guilty even when the jurors believe that the

1 defendant probably did commit the crimes he's charged with.  
2 Probably is not enough for a conviction. So when a jury  
3 returns a verdict of not guilty they do so not necessarily  
4 because they believe the defendant is innocent but because they  
5 understand that they may not convict unless convinced of a  
6 defendant's guilty beyond a reasonable doubt. Is that clear?

7 THE DEFENDANT: Yes.

8 THE COURT: If you were to proceed to trial, then  
9 during your trial the prosecution witnesses would be required  
10 to come into the courtroom and to present their testimony  
11 against you right in front of you and your attorney. Your  
12 lawyer would have the right to question the prosecution  
13 witnesses on cross-examination, your lawyer would have the  
14 right to raise objections to evidence the prosecutor attempted  
15 to offer and you and your lawyer, working together, would have  
16 the right to present witnesses, present evidence and make  
17 arguments to the jury during the course of the trial in your  
18 defense. Is that clear?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: At your trial you, yourself, would have  
21 the right to testify as a witness in your own defense if you  
22 made that choice. No one, however, could make you testify at  
23 the trial against your will. That is because the Constitution  
24 of the United States provides that no one may be compelled to  
25 say anything that is self-incriminating. If your choice was

1 not to testify in your own defense at your trial Judge Irizarry  
2 would instruct the members of the jury that they could not take  
3 your decision to remain silent into account or hold it against  
4 you in any way when they decided what their verdict should be.  
5 Is that clear?

6 THE DEFENDANT: Yes.

7 THE COURT: On the other hand, if you tender a plea  
8 of guilty and Judge Irizarry decides that it should be accepted  
9 you will as a result be giving up your constitutional right to  
10 trial and all of the other rights I've told you about today.  
11 There will be no further trial of any kind in this case. You  
12 will have no right to appeal from the judgment of guilt that  
13 will be entered against you. Judge Irizarry will essentially  
14 convict you and find you guilty based upon your admission of  
15 guilt in my courtroom this afternoon and that will free the  
16 prosecutor of any responsibility to prove what you did. Is  
17 that clear?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: If you were to proceed to trial and you  
20 were found guilty by the jury's verdict you would have a right  
21 to take an appeal and ask a higher court to review the legality  
22 of all the proceedings that led up to your conviction but when  
23 you offer a plea of guilty your conviction is based upon the  
24 words that you, yourself, chose to say. In that circumstance  
25 there is no right to appeal from the conviction that results.

1 Do you understand?

2 THE DEFENDANT: Yes.

3 THE COURT: If you plead guilty I will have to ask  
4 you questions about what you did so that Judge Irizarry and I  
5 can be satisfied that your plea of guilt is based on facts that  
6 really took place. You do not have to answer my questions  
7 unless you want to go forward with your guilty plea. If you do  
8 answer my questions and you admit your involvement in  
9 distributing narcotics you will be giving up your  
10 constitutional right not to say anything self-incriminating.  
11 Is that clear?

12 THE DEFENDANT: So then you'll ask me questions and I  
13 have to say what I've done?

14 THE COURT: If you want to go forward with your plea  
15 of guilty, that's correct.

16 [Pause in proceedings.]

17 THE COURT: Are we clear?

18 THE DEFENDANT: Yes.

19 THE COURT: Do you still want to give up your right  
20 to trial and all the other rights I've told you about?

21 THE DEFENDANT: Well, I do want to plead guilty.

22 THE COURT: Well, that's not really an answer to my  
23 question. By pleading guilty you will be giving up all of the  
24 rights that I've told you about today including the right to  
25 remain silent, the right not to have your silence held against

1 you, the right to require the prosecution to establish your  
2 guilt beyond a reasonable doubt to the satisfaction of a  
3 unanimous jury, the right to call witnesses, the right to  
4 confront witnesses against you and all of the other rights I've  
5 told you about will be lost. The right to appeal will be lost  
6 if you go forward with a guilty plea. Knowing now that you  
7 will be surrendering all of those rights that I have told you  
8 about today do you still wish to go forward with your guilty  
9 plea?

10 THE DEFENDANT: Yes, that's correct.

11 THE COURT: I am told you are making this decision  
12 pursuant to the terms of a written agreement. That agreement  
13 has been marked as Court Exhibit 1. It has a handwritten  
14 amendment, changing a date from a July date to today's date,  
15 but otherwise it's typed and it is signed on the final page.

16 Mr. Caraballo, directing your attention to the final  
17 page, do you see your signature there?

18 THE DEFENDANT: Yes.

19 THE COURT: Before you signed this document was it  
20 read to you in Spanish?

21 THE DEFENDANT: Yes.

22 THE COURT: Was it explained to you carefully by your  
23 lawyer?

24 THE DEFENDANT: Yes.

25 THE COURT: Did you understand what you signed?

1 THE DEFENDANT: Yes.

2 THE COURT: Do you have any questions about your  
3 agreement you would like to ask me or discuss privately with  
4 your attorney?

5 THE DEFENDANT: No.

6 THE COURT: Does your written agreement contain a  
7 full, complete, accurate statement in writing of everything you  
8 and the prosecution have agreed to concerning your case?

9 THE DEFENDANT: Yes.

10 THE COURT: Has anyone promised you anything in  
11 return for your guilty plea that is not written down in your  
12 agreement?

13 THE DEFENDANT: No.

14 THE COURT: Mr. Feitell, I know you're trying to be  
15 helpful. I'd so much appreciate your client's answers.

16 May I have the agreement back? Thank you.

17 The agreement says that you wish to plead guilty to a  
18 lesser included offense within Count One accusing you of  
19 knowingly and intentionally conspiring to distribute more than  
20 500 grams of cocaine. Do you understand that?

21 THE DEFENDANT: Yes.

22 THE COURT: The law that you're accused of violating  
23 or that you have agreed to plead guilty to violating -- excuse  
24 me -- requires the Judge to sentence you to prison for at least  
25 five years and authorizes a prison term of up to forty years.

1 Do you understand?

2 THE DEFENDANT: A-ha.

3 THE COURT: Does that mean yes?

4 THE DEFENDANT: Yes. Yes.

5 THE COURT: The statute also requires that the Judge  
6 sentence you to a term of supervised release of at least four  
7 years and authorizes a term of supervised release as long as  
8 the rest of your life. Do you understand?

9 THE DEFENDANT: Yes.

10 THE COURT: Supervised release is a period of time.  
11 It will start to run only when you finish completing whatever  
12 prison sentence Judge Irizarry imposes. At that point you will  
13 be released from physical custody but you will not be entirely  
14 free because you will be subject to the rules of supervised  
15 release. If you remain in the United States there will be so  
16 many rules to follow that I cannot list them all for you. They  
17 will include but they will not be limited to restrictions on  
18 your right to travel freely and requirements that you report on  
19 a regular basis to a Probation officer, follow that officer's  
20 instructions and answer that officer's questions. Whether you  
21 remain in the United States or not -- and I do alert you that  
22 you are almost certainly going to be deported upon the  
23 completion of your prison term -- you will be subject to  
24 another rule that prohibits you from committing any crime  
25 whatsoever while on supervised release and if you break any

1 supervised release rule you could be arrested and brought back  
2 before this Court on this drug charge and sent back to prison  
3 to serve a new term of up to three years on this drug charge  
4 with no credit for the time you spent serving your original  
5 sentence or while your freedom was restricted in supervised  
6 release. Is that clear?

7 THE DEFENDANT: Yes.

8 THE COURT: You could be fined as much as \$2 million  
9 and you will be required to pay a special assessment of \$100.00  
10 at or about the time of your sentence. Is that clear?

11 THE DEFENDANT: Say that again, please?

12 THE COURT: Yes. The maximum fine is \$2 million.  
13 Separate and apart from any fine there will be a mandatory  
14 \$100.00 assessment that you must pay at or about the time you  
15 are sentenced. Do you understand me now?

16 THE DEFENDANT: I must pay \$100.00?

17 THE COURT: You will definitely have to pay \$100.00  
18 and separate and apart from that the Judge may fine you  
19 anywhere from nothing up to \$2 million. Do you understand?

20 THE DEFENDANT: Yes.

21 THE COURT: Your plea of guilty will be grounds to  
22 deport you from the United States -- do you want me to start  
23 again?

24 MR. FEITELL: Would you start that sentence over?

25 THE COURT: Yes.



1 MR. FEITELL: Thank you, Your Honor.

2 THE COURT: Your plea of guilty will be grounds for  
3 your deportation in the United States and anything you admit in  
4 my courtroom this afternoon may be used against you in any  
5 proceedings that might be held to determine your right to  
6 remain in or ever return to the United States. Is that clear?

7 THE DEFENDANT: Yes.

8 THE COURT: Then I want to discuss with you what we  
9 call the sentencing guidelines. These guidelines will be  
10 calculated by Judge Irizarry and will provide her with a range  
11 of months within which the law will urge your sentence is set.  
12 Have you had the opportunity to discuss these guidelines and  
13 how they are likely to effect your sentence with your lawyer?

14 THE DEFENDANT: Yes.

15 THE COURT: The prosecutor estimates that Judge  
16 Irizarry will decide your guideline range to be 60 to 71  
17 months. That's just a prediction. The final calculation is up  
18 to Judge Irizarry. It is not possible for her under the law to  
19 decide on a lower guideline range as a practical matter because  
20 the statute requires a minimum sentence of five years of  
21 imprisonment but it is possible that the Judge, when she makes  
22 her own calculation, will decide on a longer guideline range.  
23 Do you understand that?

24 THE DEFENDANT: Yes.

25 THE COURT: Judge Irizarry won't make her guidelines

1 determination until after reviewing a document we call a  
2 presentence report. That report has not yet been written.  
3 Once it is prepared you and your lawyer and the prosecutor will  
4 be permitted to read it. You will then have the opportunity to  
5 appear before Judge Irizarry and you may then tell her if there  
6 is anything in the report with which you disagree. That's when  
7 Judge Irizarry will decide the guidelines and as I've  
8 instructed you she might decide that an even longer guideline  
9 range than the one predicted by the prosecutor is the accurate  
10 one in your case. Moreover, even after the Judge decides what  
11 the guidelines should be the Judge has the authority to  
12 determine that your case warrants a sentence outside the  
13 guidelines, your sentence cannot be less than five years but it  
14 could be even longer than the guideline range that Judge  
15 Irizarry calculates. Is that clear?

16 THE DEFENDANT: Yes.

17 THE COURT: You may have heard of parole which is --  
18 excuse me. No matter what sentence you receive you will not  
19 have a basis for challenging your guilty plea or your  
20 conviction. In fact, if you receive a prison sentence of 78  
21 months or less you may not challenge any aspect of the Court's  
22 judgment. Even if your sentence exceeds 78 months of  
23 incarceration you would not be permitted to withdraw your  
24 guilty plea or raise a legal challenge to your conviction on  
25 that basis. The only right you would have would be to

1 challenge the length of this sentence Judge Irizarry imposed.

2 Is that clear?

3 THE DEFENDANT: Yes.

4 THE COURT: You may have heard of parole which is a  
5 program of early release from a prison sentence but there is no  
6 parole in federal court, only in state court, and this is a  
7 federal court proceeding, you will be sentenced by a federal  
8 judge to serve time in a federal prison and you will not be  
9 released early from your sentence on parole. Do you understand  
10 me?

11 THE DEFENDANT: Yes.

12 THE COURT: Do you have any question you would like  
13 to ask me about the charges against you, the rights you're  
14 being asked to surrender, the penalties you face or anything  
15 else before we proceed?

16 [Off the record.]

17 THE COURT: The record will reflect that the  
18 defendant had a private conversation with his attorney with the  
19 aid of the interpreter.

20 Mr. Caraballo, is there anything you would like to  
21 ask me about the charges, the rights you're being asked to  
22 waive, the penalties you face or anything else?

23 THE DEFENDANT: No.

24 THE COURT: Is everything I've told you today clear?

25 THE DEFENDANT: Yes.

1 THE COURT: Are you ready to enter your plea?

2 THE DEFENDANT: Yes.

3 THE COURT: Mr. Feitell, do you know of any reason  
4 why your client should not tender the plea of guilty  
5 contemplated by his agreement?

6 MR. FEITELL: I know of no such reason.

7 THE COURT: Thank you, counselor.

8 Mr. Caraballo, with respect to the lesser included  
9 offense within Count One of the superseding indictment accusing  
10 you of knowingly and intentionally conspiring to distribute  
11 more than 500 grams of cocaine between September 2007 and  
12 October 2008 how do you plead? Guilty or not guilty?

13 THE DEFENDANT: Guilty.

14 THE COURT: Are you pleading guilty voluntarily and  
15 of your own free will?

16 THE DEFENDANT: Yes.

17 THE COURT: Have you been threatened or forced by  
18 anyone to make this guilty plea?

19 THE DEFENDANT: No.

20 THE COURT: Have you been promised anything that is  
21 not clearly stated in writing in your plea agreement in return  
22 for your guilty plea?

23 THE DEFENDANT: No.

24 THE COURT: Have you been promised what sentence  
25 Judge Irizarry will impose?

1 THE DEFENDANT: No.

2 THE COURT: What did you do that makes you guilty of  
3 this offense?

4 THE DEFENDANT: Well, I don't want to go to trial.

5 THE COURT: Did you sell cocaine?

6 THE DEFENDANT: Yes.

7 THE COURT: Where did you sell cocaine?

8 THE DEFENDANT: Brooklyn.

9 THE COURT: Did you work with other people to sell  
10 cocaine?

11 THE DEFENDANT: Yes.

12 THE COURT: You were part of a group of people  
13 working together to sell cocaine?

14 THE DEFENDANT: Yes.

15 THE COURT: When you made the sales did you know that  
16 it was cocaine that you were selling?

17 THE DEFENDANT: Yes.

18 THE COURT: Did you make these sales during the last  
19 part of 2007 and the first part of 2008?

20 THE DEFENDANT: Yes.

21 THE COURT: Did you sell as much as 500 grams of  
22 cocaine or more?

23 THE DEFENDANT: Yes.

24 THE COURT: Is there anything further the Government  
25 would have me inquire of the defendant?

1 MR. FRANK: No, that was satisfactory, Your Honor

2 THE COURT: Based on the information provided to me I  
3 find that the defendant is acting voluntarily, that he fully  
4 understands his rights and the consequences of his plea and  
5 that there is a basis in fact for it and I, therefore,  
6 recommend that Judge Irizarry accept the defendant's plea of  
7 guilty to the lesser included offense within Count One  
8 described in his agreement.

9 The sentencing date will be set by the Probation  
10 Department.

11 Between now and then, Mr. Caraballo, you are going to  
12 be interviewed by a Probation officer. The purpose of the  
13 interview will be to help the officer prepare the report upon  
14 which Judge Irizarry will rely when she determines your  
15 sentence. It is, therefore, critical that you be cooperative  
16 and candid with the officer during his or her interview of you.

17 Is there anything further for my attention today?

18 MR. FRANK: Not from the Government, Your Honor.

19 THE COURT: I see the defendant is on bail. Is bail  
20 to be continued?

21 MR. FRANK: We have no objection to that, Your Honor.

22 THE COURT: Bail continued. Anything else?

23 MR. FEITELL: Nothing further from the defense.

24 THE COURT: Have a wonderful afternoon.

25 \* \* \* \* \*

\* \* \* \* \*

I certify that the foregoing is a transcript from an  
electronic sound recording of the proceedings in the above-  
entitled matter.

A handwritten signature in black ink, appearing to read 'Carla Nutter', is written over a horizontal line.

CARLA NUTTER

Dated: October 24, 2009